

Message Text

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ACTION AF-10

INFO OCT-01 EUR-12 CU-04 IO-13 ISO-00 CIAE-00 DODE-00

PM-04 H-02 INR-07 L-03 NSAE-00 NSC-05 PA-02

PRS-01 SP-02 SS-15 USIA-15 DHA-02 TRSE-00 /098 W

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FM AMEMBASSY PRETORIA

TO SECSTATE WASHDC 7451

INFO AMCONSUL CAPE TOWN

AMBASSY DAR ES SALAAM 957

AMCONSUL DURBAN

AMCONSUL JOHANNESBURG

AMEMBASSY LONDON

AMEMBASSY LUSAKA

AMCONSUL MAPUTO

USMISSION GENEVA

USMISSION USUN NEW YORK

UNCLAS PRETORIA 2118

CAPE TOWN FOR EMBASSY

E.O. 11652: N/A

TAGS: PINT, SF

SUBJECT: SASO APPEAL BID DENIED

REF: PRETORIA 5845 AND PREVIOUS

1. ON APRIL 28, JUDGE BOSHOF OF TRANSVAAL PROVINCIAL
DIVISION OF SOUTH AFRICAN SUPREME COURT DENIED BID BY
9 CONVICTED IN SOUTH AFRICAN STUDENTS' ORGANIZATION/BLACK
PEOPLE'S CONVENTION (SASO/BPC) TRIAL FOR LEAVE TO APPEAL AND
DEFENSE MOTION FOR SPECIAL ENTRY ON GROUNDS OF IRREGULAR PROCEEDINGS.

DEFENSE APPLICATION FOR LEAVE TO APPEAL WAS DENIED ON
GROUNDS THAT "THE COURT HAS GIVEN A FULLY-REASONED JUDGMENT
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WHEN CONVICTING THE ACCUSED, AND NO REAL PURPOSE WILL BE
SERVED BY RELATING THE JUDGEMENT TO THE GROUNDS OF APPEAL.
SUFFICE IT TO SAY THAT HAVING GIVEN THE POINTS ARGUED IN
THE APPLICATION FULL CONSIDERATION AND DISABUSING MY MIND,
AS FAR AS IS HUMANLY POSSIBLE, OF THE FACT THAT I HAD NO
REASONABLE DOUBT AS TO THE GUILT OF THE ACCUSED, I AM NOT
SATISFIED THAT THERE IS A REASONABLE PROSPECT THAT A

COURT OF APPEAL MAY TAKE A DIFFERENT VIEW ON THE GUILT OF THE ACCUSED ON THE TWO COUNTS CONCERNED."

2. BULK OF COURT OPINION RELATED TO DEFENSE SPECIAL ENTRY ALLEGING IRREGULARITIES IN TRIAL PROCEEDINGS. IRREGULARITIES CITED BY DEFENSE INCLUDED COURT REFUSAL TO ORDER FURTHER PARTICULARS TO INDICTMENT, DISALLOWAL OF CERTAIN QUESTIONS DURING CROSS-EXAMINATION, RULING THAT TESTIMONY RELATING TO POLICE ASSAULTS ON ACCUSED IN DETENTION WAS IRRELEVANT, BOSHOF STATEMENT THAT HE WOULD NOT BELIEVE A DEFENSE WITNESS'S TESTIMONY, AND LEADING QUESTIONS PUT TO THE SAME WITNESS. BOSHOF DENIED SPECIAL ENTRY ON GROUNDS THAT ALLEGATION OF IRREGULARITIES FELL WITHIN RULE THAT ALLEGATION "NOT MADE BONA FIDE OR THAT IT IS FRIVOLOUS OR ABSURD OR THAT THE GRANTING OF THE APPLICATION WOULD BE AN ABUSE OF THE PROCESS OF THE COURT."

3. DEFENSE ATTORNEY TOLD EMBOFF APRIL 28 THAT ONLY RECOURSE OPEN IS TP PETITION CHIEF JUSTICE OF APPELLATE DIVISION IN BLOEMFONTEIN. DECISION TO PETITION HAS NOT YET BEEN TAKEN BUT DEFENSE WILL PROBABLY DO SO. DEFENSE IS DISTURBED BY BOSHOF'S BRIEF DISMISSAL OF APPLICATION FOR LEAVE TO APPEAL, ESPECIALLY IN LIGHT OF THOUSANDS OF PAGES OF RECORD DEALING WITH PHILOSOPHICAL CONCEPTS BROUGHT OUT IN 2 YEAR TERRORISM TRIAL.BOWDLER

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